



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,623	09/16/2003	John Vanden Hoek	11998.55US01	1901
7590 02/23/2006			EXAMINER	
Merchant & Gould P.C. P.O. Box 2903 Minneapolis, MN 55402-0903			KRAMER, NICOLE R	
			ART UNIT	PAPER NUMBER
			3762	
DATE MAILED: 02/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-18, drawn to a method of applying a cardiac support device to a heart, classified in class 600, subclass 016.
 - II. Claims 19-24, drawn to a device for placing a cardiac support jacket onto a heart, classified in class 600, subclass 016.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the method as claimed can be practiced by hand (i.e., the surgeon positions the jacket around the heart by applying a pulling force to the jacket), or by another materially different apparatus such as a tubular structure which does not have a second tubular member oriented within the first tubular member. In addition, the device as claimed can be used to practice another and materially different process, such as applying a sling to holding other internal organs besides the heart.

Art Unit: 3762

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

4. A telephone call was made to Julie R. Daulton on Feb. 8, 2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole R. Kramer whose telephone number is 571-272-8792. The examiner can normally be reached on Monday through Friday, 8 a.m. to 4:30 p.m..

Art Unit: 3762


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NRK

NRK

2/8/2006


George Manuel
Primary Examiner